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OFFICE OF PETITIONS

In re Application of :
McAllister, et al. :
Application No. 10/766,404 : **DECISION ON PETITION**
Filed: January 27, 2004 :
Attorney Docket No. US20010207 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to application No. 10/142,345.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed application has been included in the first line of an amendment to the specification; (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A Draft Corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Receipt of the \$1410 petition fee is acknowledged.

Any questions concerning this decision on petition may be directed to Petitions Attorney Cliff Congo at (571)272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1792 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed application.



Anthony Knight
Supervisor
Office of Petitions

Enc: Draft Corrected Filing Receipt (1 page)

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLMS	IND CLMS
10/766,404	01/27/2004	1792	1216	US20010207	40	4

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CONFIRMATION NO. 3362
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RECEIPT
OC000000028782779
OC000000028782779

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Power of Attorney: The patent practitioners associated with Customer Number **00173**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/142,345 05/09/2002 PAT 7,127,767

Foreign Applications

If Required, Foreign Filing License Granted: 06/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/766,404

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Random tumbling washing machine wash chamber for improving cleaning while minimizing mechanical damage to clothes

Preliminary Class

008

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